

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 21-173-01 (PJS/DTS)

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTON JOSEPH LAZZARO,
a/k/a Tony Lazzaro,
a/k/a Tony,

Defendant.

**GOVERNMENT’S MOTION IN
LIMINE TO SEQUESTER
WITNESSES**

The United States of America, by and through its attorneys, Andrew M. Luger, United States Attorney for the District of Minnesota, and Emily Polachek, Laura Provinzino, and Melinda Williams, Assistant United States Attorneys, hereby submits its motion in limine to sequester witnesses, with the exception of the Government’s case agents and expert witnesses.

Under Federal Rule of Evidence 615, “sequestration of most witnesses is mandatory when requested . . . but the district court is granted wide latitude in implementing sequestration orders, and the standard of review is abuse of discretion.” *United States v. Collins*, 340 F.3d 672, 680 (8th Cir. 2003). Rule 615 provides, in relevant part, that “[a]t a party’s request, the court must order witnesses excluded so that they cannot hear other witnesses’ testimony.” However, Rule 615 does not authorize exclusion of (1) a party who is a natural person, (2) an officer or employee of a party

which is not a natural person designated as its representative by its attorney, (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause, or (4) a person authorized by statute to be present. Fed. R. Evid. 615(a)–(d). Government agents and experts fall within these exceptions to the rule. *See United States v. Engelmann*, 701 F.3d 874, 877 (8th Cir. 2012) (“[T]he decision whether to allow the government's agent to testify even though the agent sits at the counsel table throughout the trial is left to the trial court's discretion.” (Quotations omitted)).

Accordingly, the Government requests that the Court issue an order sequestering witnesses during trial, but that the Government's case agents, FBI Special Agent Richard Waller and BCA Task Force Officer Brandon Brugger, be exempted from sequestration.

The Government has spoken with defense counsel, who has no objection to this motion. The Government similarly has no objection to any request by defense counsel to exempt a defense investigator from the sequestration order.

Respectfully submitted,

Dated: March 6, 2023

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